



13 MAR 2006

Christopher B. Linder
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, L.L.P.
Suite 1750
100 Galleria Parkway, N.W.
Atlanta, GA. 30339

In re Application of
SHIM *et al*
U.S. Application No.: 10/550,525
PCT No.: PCT/US2004/009570
Int. Filing Date: 26 March 2004
Priority Date: 27 March 2003
Attorney Docket No.: 050508-1370
For: CXCR4 ANTAGONISTS AND
METHODS OF THEIR USE

DECISION

This is a decision on applicants' "Response to Notice of Abandonment" filed 02. March 2007 which is treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181(A). No fee is required.

BACKGROUND

On 22 September 2005, applicants filed papers to enter the national stage of PCT/US2004/009570 which were accompanied by, *inter alia*, a sequence listing.

On 06 October 2005, the Biotechnology Systems Branch of the Scientific and Technical Information Center (STIC) detected errors in the sequence listing and sent an error report.

On 11 May 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that a copy of the sequence listing in computer readable form was required. A two-month time period for response was set with extensions of time available.

On 11 August 2006, applicants filed a response which included a sequence listing with diskette and statement regarding the sequence listing.

On 12 October 2006, the STIC again detected errors in the sequence listing and sent an error report.

On 20 November 2006, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed indicating that additional claim fees of \$25.00 a new CRF sequence listing diskette was required. Applicants were given one month to respond or any time remaining in the Form PCT/DO/EO/905 with extensions, whichever was

longer.

On 26 February 2007, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed for failing to respond to the Form PCT/DO/EO/905 mailed 28 February 2002 within the time period set therein.

On 02 March 2007, applicants filed the subject petition which was accompanied by, *inter alia*, a sequence listing with diskette.

DISCUSSION

Applicants' request that the holding of abandonment be withdrawn. Applicants included a sequence listing with diskette and argue that the sequence listing was submitted previously. Applicants' claim is rejected.

A review of the application reveals that applicants did submit copies of the CRF sequence listing previously. However, all of these sequence listings were defective.

A Form PCT/DO/EO/905 requesting a CRF sequence listing was mailed 11 May 2006 giving applicants two months to respond with extensions of time available pursuant to 37 CFR 1.136(a). As such, the time limit (with extensions) expired on 11 December 2006. Applicants submitted a response containing the required CRF diskette on 11 August 2006. However, the CRF diskette was again not accepted as it also contained errors.

A Form PCT/DO/EO/916 was mailed on 20 November 2006 extending the time period to provide an acceptable sequence listing to 20 December 2006. Applicants failed to respond to the Form PCT/DO/EO/916.

Hence, the above-captioned application was **ABANDONED** by operation of law on 20 December 2006. See 37 CFR 1.821(g).

DECISION

For the reasons discussed above, applicants' petition to withdraw the holding of abandonment is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision.

Applicants may wish to consider to revive the above-captioned application

pursuant to 37 CFR 1.137(b).

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web, by facsimile to the number listed below, or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302